

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Petition for Waiver of Universal Service)	WC Docket No. 08-71
High-Cost Filing Deadlines)	
)	
Smith Bagley, Inc.)	
)	
Request for Review of Decision by Universal)	
Service Administrator and Request for a)	
Declaratory Ruling)	

**REPLY COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

USTelecom¹ submits these reply comments in accord with the Federal Communications Commission's ("Commission") Public Notice regarding Smith Bagley, Inc.'s (SBI) Request for Review of Decision of Universal Service Administrator and Request for Declaratory Ruling filed on July 6, 2010 in the above-referenced dockets.² USTelecom's reply comments support the comments of Qwest and CenturyLink in opposition to SBI's Request for Declaratory Ruling.³ No comments other than those of Qwest and CenturyLink were filed.

SBI requests the Commission to issue a Declaratory Ruling instructing USAC to

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

² Public Notice, "Comment Sought on the Smith Bagley, Inc. Request for Review of a Decision of the Universal Service Administrative Company and a Request for Declaratory Ruling," DA 10-1350 (July 22, 2010).

³ See comments of Qwest and CenturyLink filed *In the Matter of High-Cost Universal Service Support Petition for Waiver of Universal Service High-Cost Filing Deadlines Smith Bagley, Inc. Request for Review of Decision by Universal Service Administrator and Request for a Declaratory Ruling*, WC Docket No 05-337, WC Docket No. 08-71, August 23, 2010.

change its procedures for calculating IAS for ILECs and instead adopt SBI's (incorrect) interpretation of the Commission's 2008 order capping support on an interim basis to competitive eligible telecommunications carriers (CETCs).⁴ SBI contends that the overall cap on the ILEC portion of the IAS should be indexed for line gain or loss. SBI bases its interpretation on the IAS provisions of the *CETC Cap Order*.

As noted by both Qwest and CenturyLink, the Commission's stated purpose⁵ behind splitting the IAS fund into separate CETC and ILEC pools was to avoid reducing IAS to ILECs due to CETC line growth.⁶ The separate pools were set at the amount that each group "were eligible to receive in March 2008" on an annual basis.⁷ Further, the Commission instructed USAC that nothing in the order should be construed to alter the annual IAS targeted cap amount of \$650 million.⁸ As correctly noted by CenturyLink, reducing the amount allocated to the ILEC pool clearly contradicts that instruction.⁹

SBI's conclusion misapplies the statement in the *CETC Cap Order* which reads "This amount shall be indexed annually for line growth or loss by price cap incumbent LECs."¹⁰ CenturyLink and Qwest are correct that the purpose of that statement was to direct USAC to index per-line IAS amounts to line counts to fulfill the goal of maintaining the targeted cap.¹¹ This interpretation is fully consistent with the division of the fund into two pools and the maintenance of the targeted cap for each pool. As noted

⁴ *High-Cost Universal Service Support*, WC Docket No. 05-337, Order, 23 FCC Rcd 8834 (2008), *aff'd*, *Rural Cellular Ass'n v. FCC*, 588 F.3d 1095 (D.C. Cir. 2009)(*CETC Cap Order*).

⁵ See paragraph 35 of the *CETC Cap Order* which reads in relevant part "Even with the total amount of support provided to competitive ETCs being capped, continued growth in competitive ETC lines would have the effect of reducing the amount of interstate access support (IAS) received by incumbent LECs, due to the operation of the formula for calculating IAS. To prevent the implementation of the interim cap on competitive ETC support from having this unintended consequence on incumbent LEC support...."

⁶ See Qwest comments at page 3 and CenturyLink comments at page 2.

⁷ *CETC Cap Order*, paragraph 35.

⁸ *CETC Cap Order*, footnote 107.

⁹ See CenturyLink comments at page 2.

¹⁰ *CETC Cap Order*, page 16, paragraph 35.

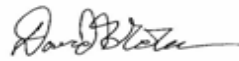
¹¹ See CenturyLink comments at page 2 and Qwest comments at page 3.

by Qwest,¹² it is also consistent with the current rules which established the usual process of USAC applying the IAS formula to recalculate the amount of support per line in each UNE loop zone based on line counts.

SBI's argument is inconsistent with Commission rules, inconsistent with the Commission's purpose in bifurcating IAS, and inconsistent with the Commission's stated goal of maintaining the targeted cap of \$650 million. The Commission should deny SBI's request for declaratory ruling.

Respectfully submitted,

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¹² See Qwest comments, page 3.